

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/771,711  
First Named Inventor: Jeffrey Young

Examiner: Flood, Michele C  
Group Art Unit: 1655  
Atty's Docket No.: USP2259A-JEF

Filing Date: 02/03/2004  
Title: Method of Treating Non-Insulin-Dependent  
Diabetes Mellitus and related Complications

Date: February 5, 2008

**Petition to Withdraw Holding of Abandonment  
Under 37 CFR 1.181 (MPEP 711.03(c))**

Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450

The practitioner, on behalf of the applicant, respectfully submits the petition to withdraw holding of abandonment under 37 CFR 1.181 (MPEP 711.03(c)).

The reason is: The applicant has timely filed a RCE, Amendment B and Petition for Extension of Time for ONE month and the payment as required by, and within the reply period. The practitioner has not received the Notice of Non-compliant Amendment which was mailed on 06/04/2007.

The office of the practitioner use IP/Case Tracking System, hereafter named 'CTS', to record the correspondences to and from the USPTO and the docketing system is sufficiently reliable. A copy of two CTS screens of the application is enclosed in Attachment A for your reference in which the demonstration of the entries of our case reference number, application number, filing date, date mailed and received of office action, date due and date sent for the office action will usually be entered for any incoming notice are illustrated. As shown in the CTS Screens, our last action for the office action is submission of RCE and Petition of Extension of Time on 05/08/2007 and the Postcard for the submission was received.

In addition, a copy of the records showing the office action received by the practitioner between 1 June 2007 and 31 August 2007 is enclosed to support the petition in Attachment B in which there is no indication of the receipt of the Notice of Non-compliance for this immediate application.

The practitioner also keeps a scanned copy of all the incoming and outgoing communications with every patent cases starting from 16 March 2007. A search under the scanned records does not show the receipt of the Notice of Non-compliance mailed on 06/04/2007. A copy of the screens is provided in Attachment C for your reference.

The practitioner further submits that every incoming letter from the USPTO will be date-stamped on the date received and a copy of the envelope for the Notice of Abandonment (mailed on 01/09/2007 and received on 01/14/2008) for this application is enclosed in Attachment D for your reference. As indicated in the envelope, the reason for abandonment is 'unknown' as to the understandings of the office. Then, the information in the Notice will be entered in the CTS system and a copy will be kept in the server of the practitioner's office. There is no record of the receipt of the Notice of Non-compliant Amendment for this immediate application.

The practitioner has intended to submit a petition to withdraw holding of abandonment based on the non-receipt of the RCE and related documents with the showing the return postcard for this immediate application on January 14, 2008, as indicated in Attachment E. However, a checking of the status of the application through PAIR system has indicated that a Notice of Non-compliance was issued on 06/04/2007. Therefore, the immediate petition is prepared and submitted instead.

Application no.: 10/771,711

Docket no.: USP2359A-JEF


Ref.: Petition to Withdraw Holding of Abandonment

Since the Notice of Non-compliant Amendment was not received, this immediate application should not be abandoned. (In re *Delgar v. Schulyer*, 172 USPQ 513 (D.D.C. 1971) Therefore, the practitioner, on behalf of the applicant, requests to withdraw the holding of abandonment of this immediate application.

No fee is submitted with this immediate petition and it is believed to be correct. However, the Director is hereby authorized to charge the additional required fee(s) or credit any overpayment to Deposit Account Number 502111 in the name of David and Raymond Patent Firm.

Please accept the above documents and grant the petition for this immediate application. Thank you for your assistance.

Respectfully submitted,



Raymond Y. Chan, Reg. No.: 37,484

108 N. Ynez Avenue, Suite 128,

Monterey Park, CA 91754.

Tel.: (626) 571-9812/ Fax: (626) 571-9813

#### Certification of Mailing

I certify that this correspondence is being deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450." on the date below.

Signature:   
Person Signing: Raymond Y. Chan

Date: 02/06/2008



Attachment A  
Appl. no.: 10/771,711  
Docket No.: USP2259A-JEF

IP/Case Tracking System - P:\PDRAdmin\Templates\0000-GIS Data\Info\data\reymond\2008\mbb\GIS-000Forms\6form.mdb

File Case Organizations People Contact Reports Current Reminders Help

### U.S. Patent Case (Record Locked to allow your updates)

Record Other Screens Save Contact Forms Help

**Case Management**  
Sr Atty: CHAN  
Pri Atty: Admin: RLC

**Application Type**  
☐ Provisional  
☐ Utility  
☐ Design  
☐ Plant

Case No: USP2259A-JEF Client ID: JEF Client Case: 22259  
App Serial No: 10/771,711 Filing Date: 2/3/2004 Status: Abandoned

Title: Method of Treating Non-Insulin-Dependent Diabetes Mellitus (Type II Diabetes) and P  
Date Iss/Abn: 1/9/2008 Patent No: Patent Expiration Date: ☐ Expiration Date Adjusted

Item	Who	Due Date

There are 0 Reminder Items for this Case

Country: ALL

**First Filed Location**  
☒ U.S. ☐ Foreign Country: Date: Set #: 1/18/2008 ADM

Office Action (Record Locked to allow your updates)

Record Save Reminders Forms Help

Case No.: USP2259A-JEF Country: USA

Ex Parte Quale: ☐ Date Mailed: 7/8/2007 Examiner: Michele Flood

Restriction/Req: ☐ Date Received: 1/16/2007 Examiner Phone: 571-272-0964

Final: ☒ Date Due: 3/8/2007 Art Unit or Office: 1655

Received Postcard: ☒ Last Date to File: 7/8/2007

Date Sent/Abandoned: 5/8/2007

Submitted RCE / Extension 1M: ☐

Notes:

Reject:  Allowable:

Drawings:  Notes:

Advisory Action: ☐ Expected ☐ Received

8/21/07 ADM

File Case Organizations People Contact Reports Current Reminders Help

7/11/07 7:11 AM 2 of 3 3 Web... EN 11:41 AM

Patent Office Action								
CaseNumber	TitleOrMark	Status	DateMailed	DateReceived	DateDue	LastDateToFile	DateSent	PostcardReceived
USP3148A-VFP	Pet Waste Bag Dispenser	Pending	8/28/2007	8/31/2007	11/28/2007	2/28/2008	11/28/2007	Y
USP3361A-SCPI	Superior Communication Product Inc.	Transferred	8/30/2007	8/31/2007	11/30/2007	2/29/2008		N
USDP3255C-DRSH	Current Overloading Proof Switch Power Supply and its IC	Pending	8/28/2007	8/31/2007	11/28/2007	2/28/2008	12/21/2007	Y
USP2061C-DRSH	CIS-Elements Decoys Useful as Anti-Tumor Therapeutics	Pending	8/28/2007	8/31/2007	11/28/2007	2/28/2008		N
USDP3036T-DRTP	Semiconductor Wafer and Manufacturing Process Thereof	Pending	8/22/2007	8/27/2007	11/22/2007	2/22/2008		N
USP2618A-JEF	Composition of Naturla Herb Extract for Treating Cardiovascular Disease and Its Method of Preparation Thereof	Pending	8/24/2007	8/27/2007	10/24/2007	2/24/2008	11/13/2007	Y
USP2652A-ETL	Rubber Tire to Energy Pyrolysis System and Method Thereof	Allowed	8/21/2007	8/23/2007	11/21/2007	2/21/2008	11/15/2007	Y
USP2839A-ZPI	Lighter (Item# 98-660, Mirror Lighter)	Pending	8/16/2007	8/20/2007	11/16/2007	2/16/2008	11/8/2007	Y
USP2400A-NKK	Treatment Bra	Pending	8/8/2007	8/16/2007	10/8/2007	2/8/2008	10/2/2007	Y
CIP2170A-NKR	Human Resource Networking System and Method Thereof	Pending	8/13/2007	8/16/2007	10/13/2007	2/13/2008	12/12/2007	Y
USP3312A-BIC	Joint Structure for Angular Arm for Lighting	Pending	8/10/2007	8/13/2007	11/10/2007	2/10/2008	11/9/2007	Y
USP2433A-HTI	Mechanical Latch Assembly	Pending	8/9/2007	8/13/2007	11/9/2007	2/9/2008	11/2/2007	Y
USP2287C-DRSH	Computing System being able to Quickly Switch between an internal and an external networks and a method thereof	Allowed	8/8/2007	8/13/2007	11/8/2007	2/8/2008	11/6/2007	Y
USP2599C-DRSH	Fuel Cell with Particulates Blocking Device	Allowed	8/6/2007	8/9/2007	11/6/2007	2/6/2008	11/6/2007	Y
USP2647A-GNC	Three Dimensional Positioning Using Feature Matching Thereof	Allowed	8/6/2007	8/9/2007	11/6/2007	2/6/2008	10/30/2007	Y
USP2987A-FP	Sign Panel Arrangement with 3-Dimensional Illumination Effect	Pending	8/6/2007	8/9/2007	11/6/2007	2/6/2008		N
USP2646A-TAI	Foldable Mobile Video Device	Pending	8/1/2007	8/6/2007	11/1/2007	2/1/2008	10/30/2007	Y
USP2921A-ZPI	Numerical Lighter	Allowed	7/30/2007	8/2/2007	10/30/2007	1/30/2008	10/25/2007	Y
USDP3587A-WPI	Foldable Frame Structure for Foldable Table	Pending	7/27/2007	7/31/2007	10/27/2007	1/27/2008	11/21/2007	Y
USP2643A-TAI	Portable Mounting Device for Mobile Entertainment Unit	Allowed	7/26/2007	7/30/2007	10/26/2007	1/26/2008	10/25/2007	Y
USP3137A-WPI	Foldable Support for Foldable Furniture	Pending	7/26/2007	7/30/2007	8/26/2007	1/26/2008	8/27/2007	Y
USP3350C-DRSZ	Pocket Safety Hand-making Electric Power and Rechargeable System and Pocket Size Electric Appliance	Pending	7/25/2007	7/27/2007	10/25/2007	1/25/2008	11/26/2007	Y
USDP2274A-ALL	Light Source Arrangement	Pending	7/24/2007	7/26/2007	8/24/2007	1/24/2008	8/24/2007	Y
USP2062A-CII3	Microscopic Precision Construction of Tissue Array Block	Pending	7/24/2007	7/26/2007	10/24/2007	1/24/2008		N
USP2786C-DRSZ	Filter Device	Pending	7/23/2007	7/26/2007	10/23/2007	1/23/2008	10/22/2007	Y
USP2919A-LYH	Lavatory Jet Assembly	Pending	7/23/2007	7/25/2007	8/23/2007	1/23/2008	9/24/2007	Y
USP3349C-DRSZ	Solar Energy Lane Marking System	Pending	7/17/2007	7/23/2007	9/17/2007	1/17/2008	12/14/2007	Y
USP2167A-MC4	Poker Game Managing Method	Pending	7/19/2007	7/23/2007	9/19/2007	1/19/2008		N
USP1921A-LEC	Portable DVD Player System for Video/Audio and Computer System	Pending	7/18/2007	7/23/2007	10/18/2007	1/18/2008	10/18/2007	Y
USP2894A-EL2	Blind Rollers	Pending	7/11/2007	7/23/2007	8/11/2007	1/11/2008	8/9/2007	Y

Patent Office Action									
CaseNumber	TitleOrMark	Status	DateMailed	DateReceived	DateDue	LastDateToFile	DateSent	PostcardReceived	
USP2943A-AC6	Slide-Dispenser	Pending	7/20/2007	7/23/2007	10/20/2007	1/20/2008	10/19/2007	Y	
USP3147A-GNC	Interruption Free Navigator	Pending	7/13/2007	7/16/2007	8/13/2007	1/13/2008	8/9/2007	Y	
USP2697A-SOT2	Interlock Attaching Strap System	Pending	7/12/2007	7/16/2007	10/12/2007	1/12/2008		N	
USP3154A-JCCT	Emergency Medical Pill Dispenser	Pending	7/13/2007	7/16/2007	9/13/2007	1/13/2008		N	
USP2270A-YYL	Method and Herbal Composition for Treatment of Diabetes	Pending	7/13/2007	7/16/2007	9/13/2007	1/13/2008	12/12/2007	Y	
CIP2229C-DRSH	Ambulatory Hip Fixation-Traction Splint Set	Allowed	7/12/2007	7/16/2007	10/12/2007	1/12/2008	10/4/2007	Y	
USD3328A-ZLL	Lighter	Allowed	7/10/2007	7/13/2007	7/25/2007	8/25/2007	8/24/2007	Y	
USP2637A-AMTC	Sanitary Device for Urinal or Toilet Flush System	Pending	7/9/2007	7/13/2007	10/9/2007	1/9/2008	10/3/2007	Y	
USP2634A-ALL	Warning Lamp	Pending	7/10/2007	7/13/2007	10/10/2007	1/10/2008	10/2/2007	Y	
USP1628H-ONC	SAM Rating Model	Abandoned	7/3/2007	7/9/2007	10/3/2007	1/3/2008		N	
USP2213A-WPI	Foldable Pivot Leg Assembly for Banquet Table with Plastic Tabletop	Pending	7/2/2007	7/9/2007	8/2/2007	1/2/2008	7/27/2007	Y	
USP1513A-JYL	Biological process of producing bio-active natural products through a quantum cycle	Pending	7/5/2007	7/9/2007	9/5/2007	1/5/2008		N	
USP2423A-AMT	Breathable/Waterproof Lining Structure for Footwear & Garment	Issued	7/6/2007	7/9/2007	9/6/2007	1/6/2008	10/3/2007	Y	
USP1841A-SHH	E. Coli Virulence Determinants and Methods of Use thereof	Pending	7/2/2007	7/6/2007	8/2/2007	1/2/2008		N	
CIP2380A-WYL	Solar Lighting Arrangement for Outdoor Umbrella	Pending	6/28/2007	7/6/2007	7/28/2007	12/28/2007	7/27/2007	Y	
USP3591C-DRSZ	PTC Airflow Heater	Pending	6/25/2007	7/2/2007	9/25/2007	12/25/2007	10/25/2007	Y	
USP2792A-WYL	Power Supplying System for Outdoor Umbrella	Pending	6/25/2007	7/2/2007	9/25/2007	12/25/2007	9/25/2007	Y	
USP2641A-FP	Sign Unit with Colorful Effect	Pending	6/25/2007	7/2/2007	9/25/2007	12/25/2007		N	
USP2292C-DRSH	Integral Multi-Stack System of Fuel Cell	Pending	6/25/2007	7/2/2007	9/25/2007	12/25/2007	10/25/2007	Y	
USP2168A-MC4	Poker Dealing Device Incorporated with Digital Recorder System	Pending	6/22/2007	6/26/2007	9/22/2007	12/22/2007	9/24/2007	Y	
USP2690A-FP	LED Sign Figure with Continuous Illumination Effect	Abandoned	6/20/2007	6/26/2007	9/20/2007	12/20/2007		N	
USP2890A-LM	Multipurpose Hair Apperal	Pending	6/22/2007	6/26/2007	9/22/2007	12/22/2007	10/15/2007	Y	
USP3395A-BX	Treatment Underwear	Pending	6/21/2007	6/26/2007	9/21/2007	12/21/2007	9/21/2007	Y	
CIP2249A-WPI	Foldable Table with Longitudinal Mid-Support Arrangement	Pending	6/21/2007	6/26/2007	8/21/2007	12/21/2007	9/20/2007	Y	
USP2432C-DRSH	Heating and Refrigerating Water Device	Abandoned	6/19/2007	6/22/2007	7/19/2007	12/19/2007		N	
USP2650A-TAI	Detachable Mounting Device for Mobile Auto Entertainment Unit	Pending	6/18/2007	6/22/2007	9/18/2007	12/18/2007	9/18/2007	Y	
USP2975A-WYL	Illumination Writing Arrangement for Outdoor Umbrella	Pending	6/18/2007	6/20/2007	9/18/2007	12/18/2007	9/18/2007	Y	
USP2141A-BDP	Antigerm Pleastic Water and Beverage	Pending	6/15/2007	6/19/2007	8/15/2007	12/15/2007		N	
USP3159A-JCCT	Toothbrush	Pending	6/14/2007	6/19/2007	9/14/2007	12/14/2007	9/13/2007	Y	
USP2810C-DRSZ	Portable Charger	Abandoned	6/13/2007	6/19/2007	8/13/2007	12/13/2007		N	
USP2061C-DRSH	CIS-Elements Decoys Useful as Anti-Tumor Therapeutics	Pending	6/15/2007	6/19/2007	7/15/2007	12/15/2007	7/13/2007	Y	

## Attachment B

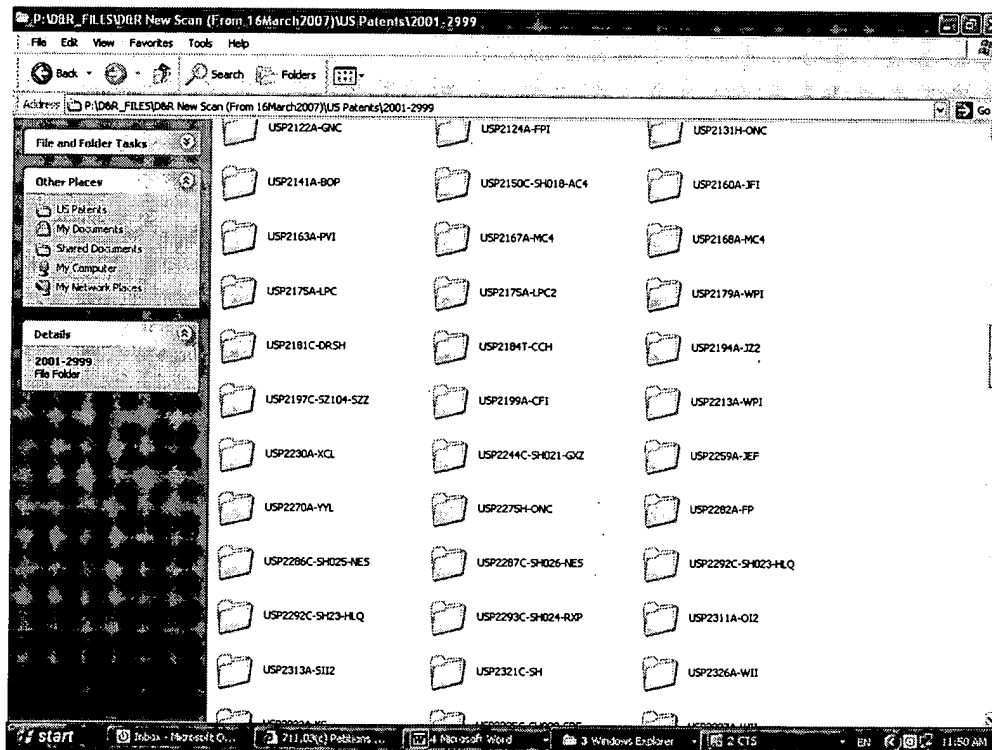
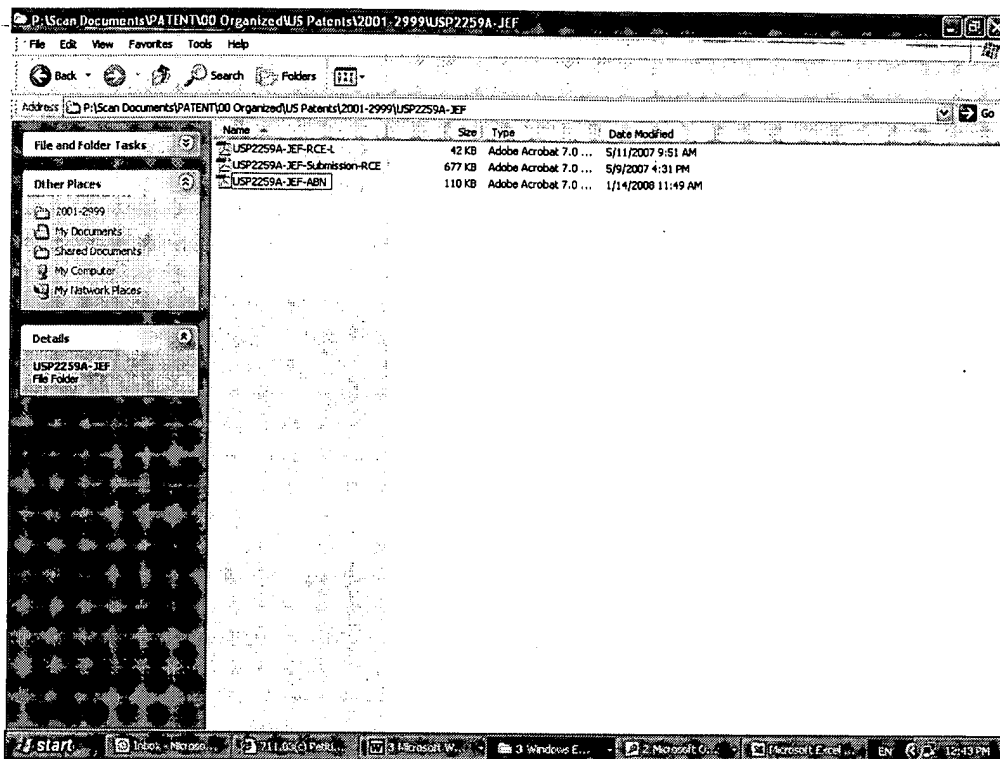
Docket No.: USP2259A-JEF

App. No.: 10/771,711

Patent Office Action								
CaseNumber	TitleOrMark	Status	DateMailed	DateReceived	DateDue	LastDateToFile	DateSent	PostcardReceived
USP2897A-XTX	Swival-Lens-Locker for Spectacle Frames	Abandoned	6/14/2007	6/19/2007	9/14/2007	12/14/2007		N
USP2197C-DRSZ	Diabetic Nutrition Scale for Controlling the Diet and Nutrition of Diabetics	Allowed	5/31/2007	6/15/2007	7/31/2007	11/30/2007	8/31/2007	Y
USP2949A-IOC	Arcing Detection System and Method for Vehicle	Pending	6/12/2007	6/15/2007	9/12/2007	12/12/2007	8/9/2007	Y
USD3609A-ZLL	Lighter (218A3)	Allowed	6/11/2007	6/15/2007	9/11/2007	12/11/2007	9/7/2007	Y
USD3608A-ZLL	Lighter (7G) (218A1)	Allowed	6/11/2007	6/15/2007	9/11/2007	12/11/2007	9/6/2007	Y
USDP3680A-TMI	Universal Detachable Shelter Frame	Pending	6/6/2007	6/11/2007	7/6/2007	12/6/2007	7/5/2007	Y
CIP2895A-ALL	High Intensity Utility Light	Allowed	6/8/2007	6/11/2007	9/8/2007	12/8/2007	9/7/2007	Y
USP2422A-FP	LED Sign with Continuous Illumination Effect	Abandoned	6/4/2007	6/7/2007	8/4/2007	12/4/2007		N
USP2359C-DRSZ	Accessory Lock Assembly	Allowed	6/5/2007	6/7/2007	8/5/2007	12/5/2007	9/4/2007	Y
USP2841A-JFI	Extendable Table	Pending	6/5/2007	6/7/2007	8/5/2007	12/5/2007	9/5/2007	Y
CIP2411A-SHH	Probiotic Therapy of Neonatal Meningitis and Method of Using E. Coli Virulence Determinatns	Pending	6/1/2007	6/4/2007	7/1/2007	12/1/2007	6/13/2007	Y
USP3377C-DRSH	Receiver Device for Karaoke	Pending	5/31/2007	6/4/2007	8/31/2007	11/30/2007	9/28/2007	Y
USP3157A-JCCT	Water Faucet with Dispenser Angle Adjustment Mechanism	Pending	5/29/2007	6/1/2007	8/29/2007	11/29/2007	8/29/2007	N
USD2487C-DRSZ	Disk Loading Device For Disk Player	Issued	5/29/2007	6/1/2007	7/29/2007	11/29/2007	7/25/2007	Y

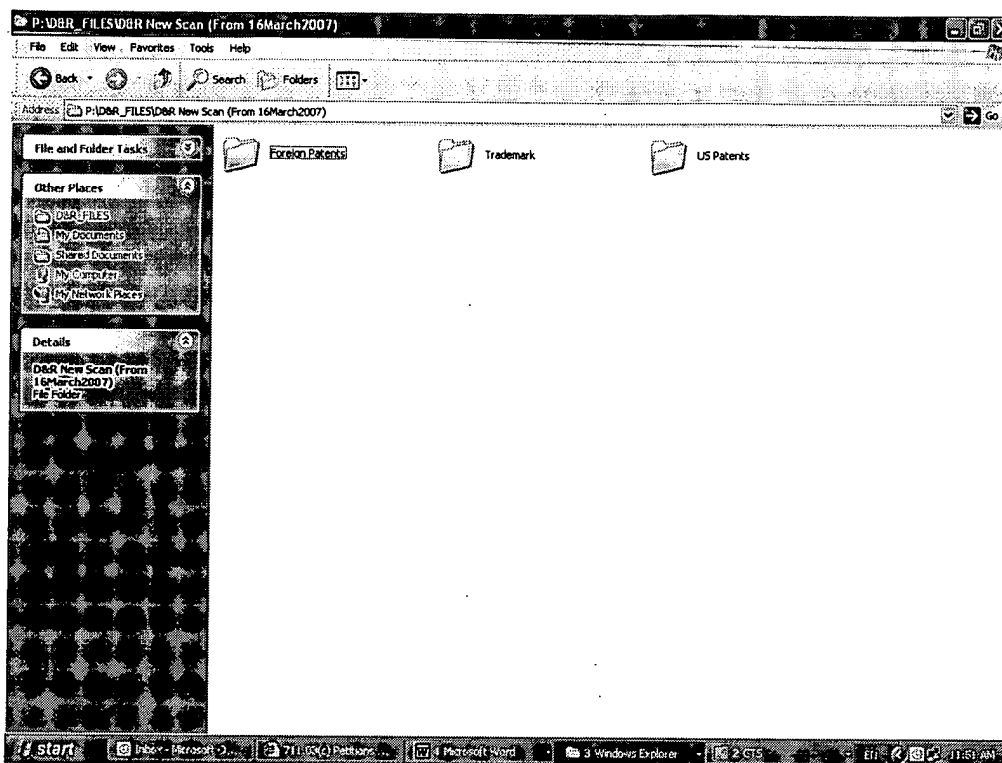


Attachment C  
Appl. no.: 10/771,711  
Docket No.: USP2259A-JEF





Attachment C  
Appl. no.: 10/771,711  
Docket No.: USP2259A-JEF



Attachment D

Organization **TC1600** Bldg./Room **REMSSEN**

UNITED STATES PATENT AND TRADEMARK OFFICE

P.O. Box 1450

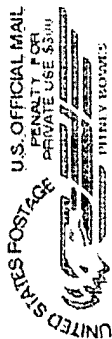
Alexandria, VA 22313-1450

If Undeliverable Return In Ten Days

AN EQUAL OPPORTUNITY EMPLOYER

Official Business

Penalty For Private Use, \$300



02 1A \$00.41<sup>0</sup>  
0004204479 JAN 09 2008  
MAILED FROM ZIP CODE 22314



USP2259A-JEF-ABN

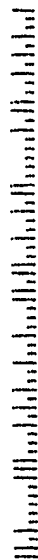
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unknown

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JAN 14 2008

BY: *af ee*

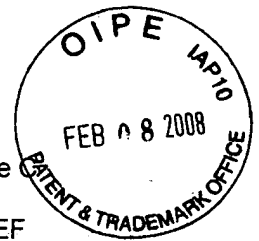
9175481690 0010



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application Number: 10/771,711  
First Named Inventor: Jeffrey Young  
Filing Date: 02/03/2004  
Title: Method of Treating Non-Insulin-Dependent  
Diabetes Mellitus and related Complications

Examiner: Flood, Michele  
Group Art Unit: 1655  
Atty's Docket No.: USP2259A-JEF



Date: January 14, 2008

**Petition to Withdraw Holding of Abandonment  
Under 37 CFR 1.181 (MPEP 711.03(c))**

Commissioner for Patents  
P.O. Box 1450, Alexandria, VA 22313-1450  
Facsimile No.: 571-273-8300

The applicant respectfully submits the petition to withdraw holding of abandonment under 37 CFR 1.181 (MPEP 711.03(c)).

The reason is: The applicant has timely filed a RCE, Amendment B and Petition for Extension of Time for ONE month and the payment as required by, and within the reply period.

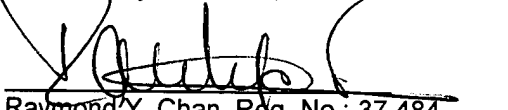
The following items are enclosed to support the immediate petition:

1. A copy of the Postcard Receipt (OIPE Stamp: May 11, 2007) as *prima facie* Evidence: Total no. of sheet: 1.
2. A copy of the previously submitted papers with Certificate of Mailing dated 05/08/2007, including the RCE, Amendment B, Petition for Extension of Time, the checks for payment (\$60.00 for Extension of Time & \$395 for RCE), and the US Postal Service Signature confirmation Receipt (dated: 05/08/2007): Total no. of sheet: 15.
3. No check payment is enclosed in this immediate petition. This amount is believed to be correct. However, the Commissioner is hereby authorized to charge any deficiency from or credit any overpayment to the Deposit Account No.: 502111 (David and Raymond Patent Firm). A duplicate copy of this letter is enclosed.

Since the applicant has submitted the reply as required before the due date, this immediate application should not be abandoned. Therefore, the applicant requests to withdraw the holding of abandonment of this immediate application.

Please accept the above documents and grant the petition for this immediate application. Thank you for your assistance.

Respectfully submitted,

  
Raymond Y. Chan, Reg. No.: 37,484  
108 N. Ynez Avenue, Suite 128,  
Monterey Park, CA 91754.  
Tel.: (626) 571-9812/ Fax: (626) 571-9813

**Certification of Mailing**

I certify that this correspondence is being deposited with the United States Postal Service as first class mail with proper postage affixed in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450." on the date below.

Signature:   
Person Signing: Raymond Y. Chan

Date: 02/06/2008

USP2259A-JEF

THE FOLLOWING ARE RECEIVED TODAY:

RE.: AMENDMENT B/RCE

APPLICATION NUMBER: 10/771.711

FILING DATE: 02/03/2004

TITLE: Method of Treating Non-Insulin-Dependent Diabetes Mellitus...

APPLICANT: Jeffrey Young

EXAMINER: Flood, Michele C

GROUP ART UNIT: 1655

AMENDMENT B: No. of Sheets: 11

Petition for Extension of Time: 1 Month

Payment of US\$60.00 by CHECK # 5940#5941

US\$ 395-



DAVID & RAYMOND

5941

Commissioner of Patents & TMs.

Check Number: 5941

Check Date: May 8, 2007

Duplicate

Check Amount: \$395.00

Item to be Paid - Description

Discount Taken

Amount Paid

FILING FEE-PATENT USP2259A-JEF (RCE)

395.00

5941

**DAVID & RAYMOND**  
108 N. YNEZ AVE. SUITE 128  
MONTEREY PARK, CALIFORNIA 91754

LOS ANGELES NATIONAL BANK  
MONTEREY PARK, CALIFORNIA 91754

16-3361/1220

DATE

AMOUNT

May 8, 2007

\*\*\*\*\*\$395.00

Memo: USP2259A-JEF/(RCE)

PAY Three Hundred Ninety-Five and 00/100 Dollars

TO THE  
ORDER  
OF:

Commissioner of Patents & TMs.  
P.O.Box 1450  
Alexandria, VA 22313-1450

Duplicate

AUTHORIZED SIGNATURE

Security features. Details on back.

**USP2259A-JEF**

THE FOLLOWING ARE RECEIVED TODAY:

RE.: AMENDMENT B/*RCE*

APPLICATION NUMBER: 10/771.711

FILING DATE: 02/03/2004

TITLE: Method of Treating Non-Insulin-Dependent Diabetes Mellius...

APPLICANT: Jeffrey Young

EXAMINER: Flood, Michele C

GROUP ART UNIT: 1655

AMENDMENT B: No. of Sheets: 11

Petition for Extension of Time: 1 Month

Payment of US\$60.00 by CHECK #5340#5941

US\$395-

DAVID & RAYMOND

5940

Commissioner of Patents & TMs.

Check Number: 5940  
Check Date: May 8, 2007  
Duplicate  
Check Amount: \$60.00

Item to be Paid - Description

Discount Taken Amount Paid

FILING FEE-PATENT USP2259A-JEF

60.00

FINAL OA

5940

DAVID & RAYMOND  
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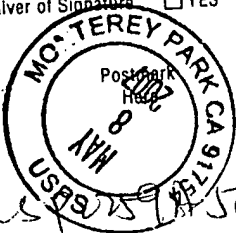
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**In The United States Patent and Trademark Office**

Application Number: 10/771,711

Examiner: Flood, Michele C

Applicant(s): Jeffrey Young

Group Art Unit: 1655

Filing Date: 02/03/2004

Title: Method of Treating Non-Insulin Dependent Diabetes Mellitus and Related Complications

Date: 05/07/2007

**AMENDMENT B**

Honorable Commissioner for Patents,  
P.O. Box 1450,  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed 01/08/2007, kindly amend the above application as follows.



**CLAIM AMENDMENTS**

Claims 1-6 (Canceled).

Claims 9-25 (Canceled).

Claim 26 (new): A method of treating a living object with non-insulin dependent diabetes, comprising a step of administering to said living object a composition comprising a predetermined amount of berberine as a first active ingredient and a predetermined amount of catalpol as a second active ingredient, in such a manner that when said first and said active ingredients are administered, insulin beta cells of said living object is substantially restored so as to achieve lowering of plasma sugar level.

Claim 27 (new): The method, as recited in claim 26, wherein said composition further comprises an oleanolic acid as a third active ingredient.

Claim 28 (new): The method, as recited in claim 26, wherein said berberine is extracted from one or more natural herbs selected from the group consisting of Berberis, Chelidonium, Stephniz, Coptis, Phellodendron, and Ziziphus.

Claim 29 (new): The method, as recited in claim 28, wherein said catalpol is extracted from one or more natural herbs selected from the group consisting of Rehmannia, Verbascum, Paulownia, Globularia, and Adonis.

Claim 30 (new): The method as recited in claim 27, wherein said oleanolic acid is extracted from one or more natural herbs selected from the group consisting of Olea, Swertia, Astrantia, Lonicera, and Beta.

Claim 31 (new): The method, as recited in claim 30, wherein said berberine is extracted from one or more natural herbs selected from the group consisting of Berberis, Chelidonium, Stephniz, Coptis, Phellodendron, and Ziziphus, and said catalpol is extracted from one or more natural herbs selected from the group consisting of Rehmannia, Verbascum, Paulownia, Globularia and Adonis.

Claim 32 (new): The method, as recited in claim 26, wherein said composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of said berberine.

Claim 33 (new): The method, as recited in claim 28, wherein said composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of said berberine.

Claim 34 (new): The method, as recited in claim 28, wherein said composition is prepared into a predetermined form for administration that contains 5 to 150 mg/kg/dl of said berberine.

Claim 35 (new): The method, as recited in claim 34, wherein said composition is prepared as a draught in water.

Claim 36 (new): The method, as recited in claim 34, wherein said composition is prepared as a syrup.

Claim 37 (new): The method, as recited in claim 34, wherein said composition is prepared as a cachets.

Claim 38 (new): The method, as recited in claim 34, wherein said composition is prepared as a tablet.

Claim 39 (new): The method, as recited in claim 34, wherein said composition is prepared as a solution.

Claim 40 (new): The method, as recited in claim 26, wherein said composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of said active ingredients.

Claim 41 (new): The method, as recited in claim 27, wherein said composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of said ingredients.

Claim 42 (new): The method, as recited in claim 29, wherein said composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of said ingredients.

Claim 43 (new): The method, as recited in claim 31, wherein said composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of said ingredients.

Claim 44 (new): The method, as recited in claim 43, wherein said composition is prepared as a draught in water.

Claim 45 (new): The method, as recited in claim 43, wherein said composition is prepared as a syrup.

Claim 46 (new): The method, as recited in claim 43, wherein said composition is prepared as a cachets.

Claim 47 (original): The method, as recited in claim 43, wherein said composition is prepared as a tablet.

Claim 48 (original): The method, as recited in claim 43, wherein said composition is prepared as a solution.

**REMARKS-General**

1. The newly drafted independent claim 26 incorporates all structural limitations of the original claim 1 and includes further limitations previously brought forth in the disclosure. No new matter has been included. All new claims 26 to 48 are submitted to be of sufficient clarity and detail to enable a person of average skill in the art to make and use the instant invention, so as to be pursuant to 35 USC 112.

2. With regard to the rejection of record based on prior art, Applicant will advance arguments to illustrate the manner in which the invention defined by the newly introduced claims is patentably distinguishable from the prior art of record. Reconsideration of the present application is requested.

**Response to Rejection of Claims 1-6 and 9-25 under 35USC103**

3. The Examiner rejected claims 1-6 and 9-25 over Li in view of the various cited arts. Pursuant to 35 U.S.C. 103:

“(a) A patent may not be obtained though the invention is **not identically** disclosed or described as set forth in **section 102 of this title**, if the **differences** between the subject matter sought to be patented and the prior art are such that the **subject matter as a whole would have been obvious** at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.”

4. In view of 35 U.S.C. 103(a), it is apparent that to be qualified as a prior art under 35USC103(a), the prior art must be cited under 35USC102(a)~(g) but the disclosure of the prior art and the invention are not identical and there are one or more differences between the subject matter sought to be patented and the prior art. In addition, such differences between the subject matter sought to be patented **as a whole** and the prior art are obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

5. In other words, the differences between the subject matter sought to be patent as a whole of the instant invention and Li which is qualified as prior art of the instant invention under 35USC102(b) are obvious in view of the various cited art at the

time the invention was made to a person having ordinary skill in the art to which the subject matter pertains.

6. The applicant respectfully submits that in order to determine whether the differences between the subject matters sought to be patent as a whole of the instant invention and the primary prior art, Li, are obvious in view of the supplemental cited arts, Song, Jiang, Wang, Chen, Hsu, Takahashi, Grayer-Berkmeijer, Yoshikawa, Somava, Li et al, and/or Prasad, we have to identify all the differences between the claims of the instant inventions and Li. The applicant respectfully identifies the differences between the claims of the instant invention and Li as follows:

(a) Referring to the newly amended claim 26, the composition is used for treating living object with non-insulin dependent diabetes mellitus by restoring insulin beta cells, whereas Li merely teaches a tablet for lowering blood sugar. A mere recitation of providing a blood sugar-lowing tablet does not in any way anticipate or suggest any composition for treating living object with non-insulin dependent diabetes mellitus ***through restoration of insulin beta cells***. Experiments have shown a promising effect of restoring insulin beta cells by administering berberine and catalpol. This is an ***unexpected result*** from combining the two active ingredients. Lowering of blood glucose level can be accomplished by many methods such as beta cells stimulation for extra secretion of insulin, or artificial synthesis of insulin. Li and the related cited arts do not in any way teach, suggest or motivate the use of the two claimed active ingredients for lowering blood glucose level ***through restoration of insulin beta cells*** in living objects such as mice.

(b) In the newly amended claim 26, "the composition comprises a berberine as a first active ingredient and a catalpol as a second active ingredient". Li merely teaches the traditional Chinese medicine is selected from astragalus root, Ginseng, figwort, Chinese yam, medlar, radices rehmanniae, cortex lycii radicis, radices puerarrire, rhizome polygonati, scutellaria, Phellodendron rupr, pieplant, fructus schizandrae, honeysuckle, rhizome anemarrhenae, rhizome attractylodis, radices polygonati, officinalis, truckahoe, lily, radices trichosanthis, etc. However, Li fails to teach any composition comprising berberine and catalpol and the combined effect of these ingredients.

The Examiner alleges that Phellodendron and Rehmannia are known to be sources of the first and second active ingredients. The applicant respectfully submits that Phellodendron and Rehmannia contain different kinds of compositions and that the medicine containing Phellodendron and Rehmannia is not equivalent to the composition of the instant invention containing berberine and catalpol. The only suggestion of Chinese medicine in Li is selected from Phellodendron, Rehmannia, etc.... Besides, Li does not verbally suggest any extraction of berberine and catalpol from Phellodendron and Rehmannia not the step of extracting the berberine and catalpol from Phellodendron and Rehmannia.

(c) Li fails to teach composition further comprises an oleanolic acid as a third active ingredient as claimed in the newly amended claim 27 in addition to what is claimed in claim 26 as a whole. Accordingly, a mere recitation of providing honeysuckle does not anticipate or suggest any composition containing oleanolic acid. In other words, Li does not disclose what kinds of composition can be extracted from Phellodendron, Rehmannia, and honeysuckle to obtain berberine, catalpol, and oleanolic acid and how the Phellodendron, Rehmannia, and honeysuckle uses for treating living object with non-insulin dependent diabetes mellitus. Moreover, Li and the cited arts do not teach, suggest, or motivate the use of Phellodendron, Rehmannia and Lonicera to lower blood glucose level **by restoration of insulin beta cells** in a living object.

(d) Li fails to teach the berberine is extracted from one or more natural herbs selected from the group consisting of Berberis, Chelidonium, Stephniz, Coptis, Phellodendron, and Ziziphus as claimed in claims 28 and 31 in addition to what is claimed in claim 26 as a whole. Li merely suggests the tablet contains Phellodendron without teaching any berberine extracted from Phellodendron. In fact, the instant invention discloses berberine can be extracted from one or more natural herbs of Berberis, Chelidonium, Stephniz, Coptis, Phellodendron, and Ziziphus.

(e) Li fails to teach the catalpol is extracted from one or more natural herbs selected from the group consisting of Rehmannia, Verbascum, Paulownia, Globularia, and Adonis as claimed in the newly amended claims 29 and 31 in addition to what is claimed in claim 26 **as a whole**. Li merely suggests the tablet contains Rehmannia without teaching any catalpol extracted from Rehmannia.

(f) Li fails to teach the oleanolic acid is extracted from one or more natural herbs selected from the group consisting of Olea, Swertia, Astringia, Lonicera, and Beta as claimed in the newly amended claim 30 in addition to what is claimed in the newly amended claim 26 as a whole. Li merely suggests the tablet contains honeysuckle without teaching any oleanolic acid extracted from honeysuckle.

(g) Li fails to teach the composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of berberine for treating living object with non-insulin dependent diabetes mellitus as claimed in claims 32 and 33 in addition to what is claimed in claim the newly amended claim 26 as a whole. Li is silent regarding any ratio of berberine for administration by living object. The disclosed dose is effective in helping restoration of insulin beta cells.

(h) Li fails to teach the composition is prepared into a predetermined form for administration that contains 5 to 1500 mg/kg/dl of berberine for treating living object with non-insulin dependent diabetes mellitus as claimed in the newly amended claim 34 in addition to what is claimed in claim 26 as a whole. Li is silent regarding any ratio of berberine for administration by living object.

(i) Li is silent regarding the composition is prepared as a draught in water for treating living object as claimed in claims 35 and 44 in addition to what is claimed in the newly amended claim 26 as a whole. Li merely teaches a tablet has blood sugar lowering effect.

(j) Li is silent regarding the composition is prepared as a syrup for treating living object as claimed in the newly amended claims 36 and 45 in addition to what is claimed in the newly amended claim 26 as a whole.

(k) Li is silent regarding the composition is prepared as a cachets for treating living object as claimed in newly amended claims 37 and 46 in addition to what is claimed in the newly amended claim 26 as a whole.

(l) Li is silent regarding the composition is prepared as a tablet for treating living object as claimed in the newly amended claims 38 and 47 in addition to what is claimed in the newly amended claim 26 as a whole.



(m) Li is silent regarding the composition is prepared as a solution for treating living object as claimed in the newly amended claims 39 and 48 in addition to what is claimed in the newly amended claim 26 as a whole.

(n) Li fails to teach the composition is prepared into a predetermined form for administration that contains 1 to 300 mg/kg/dl of the active ingredients as claimed in claims 40 to 43 in addition to what is claimed in the newly amended claim 26 as a whole.

7. Furthermore, the applicant respectfully submits that when applying 35 USC 103, the following tenets of patent law must be adhered to:

- (a) The claimed invention must be considered as a whole;
- (b) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination;
- (c) The references must be viewed without the benefit of hindsight vision afforded by the claimed invention; and
- (d) Reasonable expectation of success is the standard with which obviousness is determined.

8. Also, "The mere fact that a reference could be modified to produce the patented invention would not make the modification obvious unless it is suggested by the prior art." Libbey-Owens-Ford v. BOC Group, 4 USPQ 2d 1097, 1103 (DCNJ 1987).

9. Song, Jiang, Wang, Chen, Hsu, Takahashi, Grayer-Berkmeijer, Yoshikawa, Somava, Li et al, and/or Prasad merely teach the individual component without providing a composition including berberine, catalpol, and oleanolic acid for treating living object with non-insulin dependent diabetes mellitus ***through restoration of beta cells***. Generally speaking, most Chinese medicines contain two or more ingredients combining with each other to minimize the side effect of each ingredient. For example, berberine itself is toxicity and may cause heart disease and lower the blood pressure. The composition of berberine, catalpol, and oleanolic acid can minimize the side effect of berberine and allows the living object, especially for human being, for administration. In fact, neither Li, Song, Jiang, Wang, Chen, Hsu, Takahashi, Grayer-Berkmeijer, Yoshikawa, Somava, Li et al, nor Prasad suggests a method of treating a

living object for administration containing the above distinctive features (a) to (n) as claimed in the instant invention as well as any combination or possibility of providing a composition including berberine, catalpol, and oleanolic acid for treating living object with non-insulin dependent diabetes mellitus. The unexpected results in the instant invention should therefore be recognized.

10. "To prevent the use of hindsight based on the invention to defeat patentability of the invention, this court requires the examiner to show a motivation to combine the references that create the case of obviousness. In other words, the examiner must show reasons that the skilled artisan, confronted with the same problems as the inventor and with no knowledge of the claimed invention, would select the elements from the cited art references for combination in the manner claimed... [T]he suggestion to combine requirement stands as a critical safeguard against hindsight analysis and rote application of the legal test for obviousness..." *In re Gorman*, 933 F.2d 982, 986, 18 USPQ 2d 1885, 1888 (Fed. Cir. 1991).

11. Accordingly, the applicant believes that neither Li, Song, Jiang, Wang, Chen, Hsu, Takahashi, Grayer-Berkmeijer, Yoshikawa, Somava, Li et al, nor Prasad, separately or in combination, suggests or makes any mention whatsoever of the difference subject features (a) to (n) as claimed in the amended claims 26-31 and 32-48 of the instant invention.

12. Applicant believes that for all of the foregoing reasons, all of the claims are in condition for allowance and such action is respectfully requested.

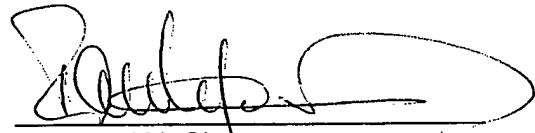
#### **The Cited but Non-Applied References**

13. The cited but not relied upon references have been studied and are greatly appreciated, but are deemed to be less relevant than the relied upon references.

14. In view of the above, it is submitted that the claims are in condition for allowance. Reconsideration and withdrawal of the rejection are requested. Allowance of claims 26-31 and 32-48 at an early date is solicited.

15. Should the Examiner believe that anything further is needed in order to place the application in condition for allowance, he is requested to contact the undersigned at the telephone number listed below.

Respectfully submitted,

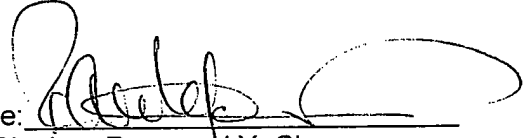


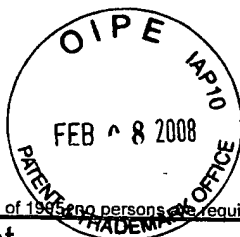
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# Request for Continued Examination (RCE) Transmittal

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Application Number	10/771,711
Filing Date	02/03/2004
First Named Inventor	Jeffrey Young
Art Unit	1655
Examiner Name	Flood, Michele C
Attorney Docket Number	USP2259A-JEF

**This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application.**  
Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☒ Amendment/Reply

iii. ☐ Information Disclosure Statement (IDS)

ii. ☐ Affidavit(s)/ Declaration(s)

iv. ☒ Other Return postcard

## 2. Miscellaneous

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b. ☐ Other \_\_\_\_\_

## 3. Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. 502111. I have enclosed a duplicate copy of this sheet.

i. ☒ RCE fee required under 37 CFR 1.17(e)

ii. ☒ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☐ Other \_\_\_\_\_

b. ☒ Check in the amount of \$ 455.00 enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED

Signature

Name (Print/Type) Raymond Y. Chan

Date

Registration No. 37,484

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Name (Print/Type) Raymond Y. Chan

Date

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Serial No.: 10/771,711

Art Unit: 1655

Filed: 02/03/2004

Examiner: Flood, Michele C

For: Method of Treating Non-Insulin Dependent Diabetes Mellitus and Related Complications

PETITION FOR EXTENSION OF TIME UNDER 37 C.F.R. 1.136

Honorable Commissioner for Patents,  
P.O. Box 1450, Alexandria, VA 22313-1450

Sir.:

It is respectfully requested that an Extension of Time for the period indicated below be granted in accordance with the provisions of 37 C.F.R. 1.136 to take the action required in the application identified in caption, as reflected by the papers submitted.

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<input type="checkbox"/> Second Month	\$450.00 (\$225.00)*
<input type="checkbox"/> Third Month	\$1,020.00 (\$510.00)*
<input type="checkbox"/> Fourth Month	\$1,590.00 (\$795.00)*
<input type="checkbox"/> Fifth Month	\$2,160.00 (\$1080.00)
*Small Entity	TOTAL: \$ 60

☒ A check in the amount of the above total fee is attached.  
This amount is believed to be correct; however, the Commissioner is hereby authorized to charge any deficiency or credit any overpayment to Deposit Account No. 502111. A duplicate copy of this letter is attached.

☐ Please charge any fee which may be required to Deposit Account No. \_\_\_\_\_. A duplicate copy of this letter is attached.

Respectfully submitted,

By :

Raymond Y. Chan  
Reg. No. : 37,484  
108 North Ynez Avenue  
Suite 128  
Monterey Park, CA 91754

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I certify that this correspondence will be deposited with the United States Postal Service as First Class Mail in an envelope addressed to: "Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" on the date below.

05/08/2007  
Date of Deposit

Raymond Y. Chan  
Signature of Registered Representative